

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIMINAL NO. 19-1820-MV
)	
vs.)	
)	
CHRISTOPHER DELGADO,)	
)	
Defendant.)	

UNITED STATES' RESPONSE TO DEFENDANT'S MOTION TO CONSOLIDATE

The United States filed a motion for hearing on revocation of presentencing release (Doc. 51) on September 1, 2021, after defendant Christopher Delgado violated his conditions of release by riding a motorcycle obtained through fraud to a motorcycle rally in South Dakota and getting arrested twice in South Dakota. Also on September 1, this Court ordered (Doc. 52) that a hearing take place before the Honorable Jerry H. Ritter, the judge who had on May 6, 2020 imposed the conditions of release that Delgado violated.

Delgado proceeded to engage in dilatory tactics that ultimately succeeded in pushing back the hearing that this Court ordered until October 19, 2021. He requested a full fourteen days to respond to the Government's motion for a hearing, despite the fact that the motion is perfunctory under 18 U.S.C. § 3148(b), and that the Court had already ordered that the hearing take place. Delgado asked to brief on the proposed theory that Judge Ritter was not the proper judge to rule on the petition, despite the fact that 18 U.S.C. § 3148(b) clearly states: "To the extent practicable, a person charged with violating the condition of release that such person not commit a Federal, State, or local crime during the period of release, shall be brought before the judicial officer who ordered the release and whose order is alleged to have been violated." After being granted the requested time to brief the issue, Delgado did not file a response based on that

theory, but rather filed a pleading (Doc. 55) that argued that Judge Ritter should not revoke and detain Delgado—arguments that could have properly been made at the hearing that this Court ordered on September 1.

Scheduling of the hearing before Judge Ritter was further delayed by the defense counsel's filing of a Notice of Unavailability (Doc. 53). Further, Judge Ritter's chambers was working diligently to schedule a hearing when Delgado tested positive for COVID. On Monday, October 4, Delgado opposed a scheduled Zoom hearing on Friday, October 8, because he was supposedly too ill to appear by Zoom. Judge Ritter scheduled and held a status conference on Wednesday, October 6. Despite the fact that Delgado's presence was not required at the status conference, and he had anticipated being too ill to attend a Friday hearing, Delgado appeared via Zoom at the Wednesday status conference. At that conference, Delgado refused to waive his right to personal appearance. This resulted in the delay of the hearing that this Court ordered on September 1 to October 19, two days before the scheduled October 21 sentencing hearing.

Given that Delgado has succeeded in delaying a hearing that this Court ordered occur before Judge Ritter a month and a half ago until only two days before the October 21 sentencing, and given that the United States believes Delgado's conduct while on release is relevant to his sentencing, the United States respectfully withdraws its opposition to the Defendant's motion to consolidate. The United States plans to present evidence and argument regarding Delgado's violation of his conditions of release at the sentencing hearing on October 21.

Respectfully submitted:

Fred J. Federici
Acting United States Attorney

/s/ Filed electronically

PAUL SCHIED
SEAN J. SULLIVAN
Assistant United States Attorneys
PO Box 607
Albuquerque, NM 87103
(505) 346-7274

I HEREBY CERTIFY that I filed the foregoing pleading electronically through the CM/ECF system which caused the opposing party of record to be served by electronic means, as reflected on the Notice of Electronic Filing, and other methods of service as indicated therein on October 14, 2021:

 /s/
Paul Schied
Assistant United States Attorney